

Judge Robert S. Lasnik

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

2003 HONDA CIVIC, VIN
1HGEM22193L802370,

Defendant.

NO. C05-0102RSL

CONSENT JUDGMENT FOR
FORFEITURE OF \$8,500.00 IN LIEU
OF DEFENDANT VEHICLE

COMES NOW the United States of America, by and through John McKay, United States Attorney for the Western District of Washington, and Peter O. Mueller, Assistant United States Attorney for said District, and Claimant Kim Emily Olexson, by her counsel John R. Crowley and enter into this Consent Judgment for Forfeiture upon the terms and conditions set forth below.

Plaintiff, United States of America, filed its Complaint for Forfeiture in rem against the defendant 2003 Honda Civic, VIN, 1HGEM22193L802370 and its Equipment, Tools, and Accessories, (the defendant vehicle) on January 19, 2005. In its Complaint, the United States alleged that the defendant vehicle was used to facilitate the importation, bringing in, and concealing of an article, that is, marijuana, which was attempted to be introduced into

1 the United States contrary to law and is therefore subject to forfeiture to the United States
2 pursuant to 19 U.S.C. §1595(a). The Complaint also alleged that the defendant vehicle was
3 used to transport, conceal, and possess contraband, and to facilitate the transportation,
4 concealment, receipt, possession, purchase, sale, exchange or giving away of contraband,
5 that is, marijuana, in violation of 49 U.S.C. § 80302(b) and was therefore subject to
6 forfeiture to the United States pursuant to 49 U.S.C. § 80303 and that the defendant vehicle
7 was used to transport and to facilitate the transportation, sale, receipt, possession and
8 concealment of a controlled substance, that is, marijuana, in violation of 21 U.S.C. §§
9 841(a)(1), 952 and 960 and was therefore subject to forfeiture pursuant to 21 U.S.C. §§
10 881(a)(4) and 965.

11 On or about January 24, 2005 copies of the Complaint for Forfeiture in rem, Notice
12 of Complaint, and Warrant of Arrest for the defendant vehicle, were served on potential
13 claimant Kim Emily Olexson, the registered owner and title holder of the defendant vehicle
14 through her counsel, John R. Crowley.

15 On or about June 7, 2005 Claimant Kim Emily Olexson, through counsel, filed a
16 claim of ownership in the defendant vehicle. The United States does not contest the
17 timeliness of Olexson's claim. On or about June 7, 2005, Claimant Kim Emily Olexson filed
18 an answer to the Complaint.

19 Notice of the forfeiture action as alleged in the Complaint and of the arrest of the
20 defendant vehicle was published in The Daily Journal of Commerce on February 9, 16, and
21 23, 2005, in order to give all persons, including any unknown claimants, the opportunity to
22 appear and be heard. All interested persons were advised to file their claims pursuant to
23 Supplemental Rule C(6) of the Federal Rules of Civil Procedure with the Clerk of the Court
24 within thirty (30) days after the date of the publication and to serve their Answers to the
25 Complaint within twenty (20) days after the filing of a claim.

26 More than thirty (30) days have elapsed since all possible claimants were served with
27 the Complaint and related documents. In addition, more than thirty (30) days have elapsed
28 since the last date notice of this action was published. Neither a claim to the defendant

1 vehicle, nor an answer to the Complaint have been filed by any person or entity, within the
2 time period allowed by Supplemental Rule C(6), except for claimant Kim Emily Olexson.

3 Claimant Kim Emily Olexson hereby agrees to pay the United States the total sum of
4 \$8,500.00, United States Dollars, in the form of a cashier's check in the amount of
5 US\$8,500.00 made payable to the United States Bureau of Customs and Border Protection.

6 The cashier's check shall be delivered to Assistant United States Attorney Peter O.
7 Mueller at the United States Attorney's Office, 700 Stewart Street, Suite 5220, Seattle,
8 Washington 98101, no later than June 30, 2005.

9 Claimant Kim Emily Olexson hereby further agrees to fully and finally release and
10 forever discharge the United States and its agencies, agents, employees and officers, the
11 Bureau of Customs and Border Protection, the Bureau of Immigration and Customs
12 Enforcement, and their officers and employees, and any other enforcement agents or officers
13 involved in the investigation relating to this case, from any and all claims, liens, demands,
14 obligations, actions, causes of actions, indemnifications, damages, liabilities, losses, costs
15 and expenses, of any nature whatsoever, known or unknown, past, present or future, that Kim
16 Emily Olexson, her heirs, successors, or assigns may have had, now have, or may hereafter
17 have, arising out of the search, seizure, handling, and disposition of the defendant vehicle by
18 officers and agents of the Bureau of Customs and Border Protection and Bureau of
19 Immigration and Customs Enforcement on or about September 13, 2004, the related
20 investigation leading to and following such actions, and the subsequent forfeiture
21 proceedings, including any claims for interest and attorney's fees.

22 The United States agrees that, following entry of this consent judgment, it will instruct
23 the United States Bureau of Customs and Border Protection to release the defendant vehicle
24 to Kim Emily Olexson, upon receipt of said cashier's check as specified above.

25 It is expressly acknowledged by the parties that the US\$8,500.00 to be paid by
26 Claimant Kim Emily Olexson is to be forfeited to the United States in lieu of any forfeiture
27 of the defendant vehicle and includes accumulated storage charges. In the event that the said
28 US\$8,500.00 is not timely paid to and received by the United States on or before June 30,

2005, then the Court may enter, without the necessity of further proceedings or adjudication of any issue of fact or law, a Judgment condemning and forfeiting the defendant vehicle to the United States.

The United States and Kim Emily Olexson now stipulate and agree to the entry of this Consent Judgment for Forfeiture without further adjudication of any issue of fact or law. This Consent Judgment for Forfeiture fully and finally resolves all issues in this action. Accordingly, IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

1. This Court has jurisdiction of this matter and over the property and the parties pursuant to 28 U.S.C. §§ 1345, 1355, 1356, 19 U.S.C. §1595a, 49 U.S.C. §80303 and 21 U.S.C. §§ 881(a)(4) and venue pursuant to 28 U.S.C. §§ 1355 and 1395.

2. By June 30, 2005, Claimant Kim Emily Olexson shall pay the United States in the manner specified above, the total sum of US\$8,500.00, which payment is condemned and forfeited to the United States to be disposed of in accordance with law, including reimbursement to the Bureau of Customs and Border Protection for its costs incurred in storing the defendant vehicle.

3. The defendant vehicle, One (1) 2003 Honda Civic, VIN, 1HGEM22193L802370, its Tools, Accessories and Equipment, shall be released to Claimant Kim Emily Olexson by the Bureau of Customs and Border Protection, upon receipt of said US\$8,500.00, in the manner specified above.

4. In the event that Claimant Kim Emily Olexson should fail to pay the said US\$8,500.00 within the time, and in the manner, specified above, then, upon request of the United States, the Court shall enter a Judgment condemning and forfeiting the defendant vehicle to the United States, without the necessity of further proceedings of any kind.

5. Except as provided in paragraph 2 above with respect to storage costs incurred by the United States, each party is to bear its own costs and attorney's fees.

6. This Consent Judgment represents a full settlement and satisfaction of all claims to the defendant vehicle and of any causes of action arising out of the search and seizure of the defendant vehicle. The parties shall execute such further documents, to the extent

1 necessary, to implement the terms of this Consent Judgment.

2 7. The Clerk of the Court is directed to mail a copy of this Consent Judgment for
3 Forfeiture to each party of record and to send three additional, certified copies to the United
4 States Attorney's Office, Seattle, Washington.

5 DATED this 1st day of July, 2005.

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8 Robert S. Lasnik
9 United States District Judge
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